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September 17, 2012

ZONING COMMISSION  
District of Columbia  
CASE NO. 10-14  
EXHIBIT NO. 4

Zoning Commission for the District of Columbia  
One Judiciary Square  
441 4th St NW  
Washington, DC 20001

Dear Commissioners,

Thanks for giving me the opportunity to testify before the board to oppose the map amendment change for the Big Bear Cafe at 1700 First St NW.

First I would like to state that I like the Big Bear Cafe. However, I wish to dispel the notion that the Big Bear Cafe and its owner is the 'Knight in Shining Armor' for our neighborhood. Our neighborhood has been undergoing change long before the Big Bear Cafe became popular. Yes, the Big Bear Cafe has contributed to the growth of the neighborhood, but it's the long term residents that were on the battle field and fought to take back our neighborhood when it was infested with drugs and violence that are the true heroes. We had the most notorious drug gang (R St gang and Rayful Edmonds). It was the residents, not the Big Bear Cafe that rescued and saved our neighborhood! The owner of the Big Bear Cafe took advantage and seized the opportunity to do business in a neighborhood that was already changing. Yes, the Big Bear Cafe adds a little charm, but it has also caused the residents much harm.

The Big Bear Cafe's owner, Stu Davenport, was our former ANC 5C03 Commissioner (2007-2009?). As our Commissioner, he deceived the residents. He reached out to supporters and opted not to communicate any change to those that were opposed to his plans. This was a consistent tactic that was used by him to get what he wanted. He eventually resigned due to conflicts of interest.

In 2007, Mr. Davenport met with the residents to discuss plans for 85 R St NW. The owners wanted to open a gourmet seven eleven shop with beer and wine and convert from R4 to C2A. The residents were opposed to having another liquor serving establishment in the neighborhood. We were very vocal about it. Stu also asked what we thought about a coffee shop and we said coffee shop OK, but no liquor and no music. He opened the coffee shop and little by little started introducing all of the things that the residents were opposed to. If you give him an inch, he will take a mile. This is how he has operated and dealt with the residents since opening the cafe. The ABRA Board restricted his hours of operations because they realized that he was in residential community. Even so, in February 2012 Mr. Davenport went back to ABRA and tried to extend his hours of operation without notifying the nearby residents. He wanted outside cafe service until midnight on the weekdays and 1am on the weekends. We do not have a Voluntary Agreement with the Big Bear Cafe. If he is rezoned, the residents will not have any say in what type of business or activity can occur at this location. Rezoning is a threat to our community and it would ruin the character of our residential neighborhood. Most of the houses were built in the 1800's. The Metropolitan AME church on North Capitol St was a stop on the underground railroad. Residential communities need businesses such as grocery stores, barber shops, hair salons. We don't need to have noisy bars, clubs or restaurants in residential communities. The commercial corridors were built to sustain this type of activity.

In 2007, there were people smoking marijuana behind haystacks at the Big Bear Cafe. The residents that live close to the cafe can attest to this fact. In 2009, he held several events that served alcohol without a liquor license (without using caterers). He also had several bands playing at the cafe until 3am without an entertainment permit. He even used the sidewalk cafe without a permit. To date, he is still breaking the rules, but doesn't always get caught. ABRA issues several citations, serving alcohol to a minor, using sidewalk cafe after the stipulated hours, noise violations, not filing the appropriate financial reports. Mr. Davenport continues to cry ignorance, or as it is said today, experiencing growing pains, but his acts are just a blatant disrespect for DC law and the neighbors that live close to the cafe.

The ANC originally requested that Mr. Davenport applied for the zoning change, As per the Commission's Guide on DC Alcoholic Beverage Licenses (June 2010), rezoning was thought to be a requirement to obtain a liquor license. Rezoning

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wasn't needed to obtain a liquor license and it's not needed for him to run and grow his business. Mr. Davenport operates a very successful business and does not need the property to be rezoned to continue operations.

At the ABRA hearing, the residents were able to prove that the Big Bear Cafe patrons drove (not walk, bike, or take the metro as their ad-hoc surveys would suggests). However, ABRA granted their liquor license and DDOT issued a permit for the sidewalk cafe

Residents have always been concerned about how growth would impact our quality of life. This is noted in the Office of Planning and Economic Development Neighborhood Investment Fund Bloomingdale/Eckington Investment Plan. We embrace economic growth and development, but it's about smart growth. We already see the impact on neighborhoods such as U St, Columbia Road, and H St. We feel that a study needs to be done to assess the long term ramifications of a rezoning change in residential communities.

After receiving his liquor license and permits, Mr. Davenport approached the Office of Planning and requested the map amendment. The Office of Planning (OP) issued a report recommending the change. For two years they have had the report in works and not once did anyone meet with the members of this community to discuss the map amendment change. Once again, certain individuals were informed about the changed, but the members that were most affected by the change did not take part or give input to the tasks force. The report should be rescinded until they have conducted a study about the long term ramifications of rezoning in residential neighborhoods. I am perplexed as to how the Office of Planning can justify the rezoning because the side entrance of the Big Bear Cafe on R St NW faces a federal triangle park that has been zoned C2A. Florida Avenue is on the other side of the park. The address of the Big Bear Cafe is 1700 First St and it is surrounded by residential properties!!! Commercial activities should be concentrated on commercial corridors (Florida Avenue, North Capitol St, Rhode Island Avenue, New York Avenue) as outlined in the NIF! The OP report is inconsistent with the Comprehensive Plan. The Big Bear Cafe is not vacant and it's not located on a commercial corridor! The Big bear Cafe maintains an existing legally conforming use status, which is how it should remain.

The map amendment would set a precedent for other developers to change R4 properties to C2A. They will say if Big Bear can do it, why can't we. There are significant financial gains with obtaining a C2A. Home values and property taxes will significantly increase, causing undue hardships on the retirees and seniors living in the area. The owner (present or future) can tear down the building and build a bigger building. They will be able to go up another 10 feet (50 feet when residential properties are 40 feet). Residents will have no say in what type of business can operate at that location. Rezoning will significantly change the character of our neighborhood, from quiet residential to something like U St, Columbia Road, H St, etc. or a mini shopping center can be erected. Mr. Davenport wants to make room for more people, which means more patrons and overcrowding, less parking, more congestion, later hours. He wants the commercial zoning to protect him from losing his license due to the violations. We have no voluntary agreement with this business! If he gets rezoned, he can go back and ask for later hours, which he already tried this year. Last but not least, I'm concerned about rodents and trash. We have already seen an increase in rodent activity near the cafe. We have seen rats run across the street from the cafe into our blocks. I thank God for the opossums roaming around and I hope and pray that they will eat the rats!

Mr. Davenport claims that he will not build any higher and he said he would consider adding a covenant to his deed. During ABRA mediation, he also said that he would consider parking arrangements for his patrons, but he did nothing about it. He has consistently proven that he cannot be trusted and is not a man of his word.

I appeal to the members of the Zoning Board to vote against the Map Amendment change. It is spot zoning and it will have negative and harmful effects on the community at large by significantly increasing the property values and taxes as well as impacting our quality of life. There are plenty of nearby commercial properties available today (75 Florida Avenue, 1707 North Capitol St, other commercial properties on Florida outlined in OP's report). There is no reason to rezone this property. The residents have already suffered enough. He is supposed to operate a restaurant, yet he sells Christmas trees, has bike sales and repairs, art and crafts shows, poetry readings, live music. Although these are nice events, the affairs generate large crowds, generate noise, and affect residential parking. Mr. Davenport has violated agreements countless times and giving him C2A zoning will be like giving a bomb to a terrorist!

Sincerely,

Karla M. Lewis



August 26, 2012

Dear Bloomingdale Neighbors,

We, members of the Bloomingdale community, would like to publicly go on record our reasons for opposing the zoning change for the Big Bear Cafe. As many of us have stated on numerous occasions, we like the Big Bear Cafe. Our opposition has nothing to do with the Bear Big Cafe. It has everything to do with the long term ramifications on residential communities. We oppose the zone change from R-4 to C-2-A mainly because it sets a terrible precedent for our community. If this zoning change takes place, it will be giving an incentive for owners and developers to convert or buy R-4 properties, get the zone changed to commercial (e.g. C-2-A) then demolish the properties and build, bigger more commercial buildings, including shopping centers, in the middle of our residential community. That's right C-2-A zoning permits matter-of-right low density development, which include shopping centers with 100% commercial use. In other words, this zoning change will encourage owners and developers to say "if you did it for Big Bear, why can't you do it for me," and give them the substantial financial gains from this increase in zoning.

The Office of Planning produced the Neighborhood Investment Fund 'Bloomingdale/Eckington Investment Plan'. In that document, it was noted that residents were concerned about the effect that economic development would have in our neighborhoods. The document outlined plans for economic development along the commercial corridors such as Florida Avenue, North Capitol Street, New York Avenue and Rhode Island Avenue. All of the aforementioned commercial corridors have plenty of available properties that are already commercially zoned. Given this, why is it necessary to spot zone for the Big Bear Cafe? R-4 zoning has allowances for non conforming use for things like Barber Shops, Hair Salons, Grocery Stores, Coffee Shops, and other types of small businesses that are needed within communities. These types of businesses are essential for residential areas. Having commercially zoned properties in the midst of the residential communities threatens the future of the residential community as we know it today.

This is not about the Big Bear Cafe. It's about the harmful effect that the zoning change will have on residential communities.

Thank you for your time and support.

Sincerely,  
Bloomingdale Neighbors for Smart Development (BNSD)

 111 R St. N.W.

Big Bear Cafe, License # ABRA-084379:  
2/1/12

### **INVESTIGATIVE HISTORY**

1. 1/20/12: **Case #12-CMP-00050**, Noise violation, Citation #7196, \$250 fine.
2. 7/14/11: **Case #11-CC-00052**, Sale to minor on 7/7/11; No ABC manager on duty. 8/10/11: The Board requested a warning letter to be sent; and requested a Show Cause Hearing for the ABC manager violation. 2/1/12: The Board accepted an OIC of a \$500 fine payable by 2/1/12. Fine paid,
3. 3/3/11: **Case #11-CMP-00091**, Quarterly Statement for 2/1/11, Citation #2808, \$250 fine (*1 Secondary*). 4/21/11: Citation paid.
4. 2/17/11: **Case #11-251-00068**, Substantial change in operation must be approved (*1 Primary*). 3/30/11: The Board referred to the staff for settlement. 4/28/11: \$1,000 fine paid.

### **Abbreviations**

NFA = No Further Action

OIC = Offer in compromise and settlement